


State of Vermont, Agency of Human Services Department of Corrections	Title: USE OF FORCE – FACILITIES This is an "A" Security Level directive for staff only.		Page 1 of 17
Chapter: Security and Supervision	# 413.01 – "A"	Supersedes #413 (9/22/93), 413.01 (9/22/93), 413.02 (12/23/96), 413.04 (8/01/97), 413.05 (11/18/97) and 413.03.01 (11/25/02)	
Attachments, Forms & Companion Documents: 1. Use of Force Report Form			
Local Procedure(s) Required: No Applicability: All facility staff, volunteers, contractors Security Level: "A" - Only staff may have access to this document.			
Approved: <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">  Robert D. Hofmann, Commissioner </div> <div style="text-align: center;"> <u>June 28, 2006</u> Date Signed </div> <div style="text-align: center;"> <u>July 31, 2006</u> Date Effective </div> </div>			

PURPOSE

The purpose of this directive is to establish uniform procedures regarding the use of force, including when force may be used, what level of force may be used and which type of force is authorized for use.

POLICY

The Vermont Department of Corrections believes in non-violent conflict resolution, although on occasion physical force may be the only alternative. The Department of Corrections authorizes staff to use force only as a last alternative after all other reasonable efforts to resolve a situation have failed.

AUTHORITY & REFERENCE

28 V.S.A., § 101(1), § 102(c)(1),(5),(6), § 601(2),(3),(4), § 801a; American Correctional Association Standards for Adult Correctional Institutions, 4th Edition, January 2003; Standards 4-4190, 4-4191, 4-4199, 4-4200, 4-4201, 4-4202, 4-4203, 4-4204, 4-4205, 4-4206.

DEFINITIONS

Calculated/Planned Use of Force: The use of force in situations where time and circumstances allow for consultation with qualified health care and mental health professionals and approval by higher ranking employees, and where there is some opportunity to plan the actual use of force.

Chemical Agent: Chemical compounds that, when deployed, are designed to cause sufficient physiological effect to stop, control or temporarily immobilize an individual. Common chemical agents are OC (oleoresin capsicum) and CN (2-chloroacetophenone).

Chemical Agent Devices: Chemical agent devices consist of three (3) categories: (1) Category I devices are hand-held aerosol dispensers; (2) Category II devices are limited to the OC pepper ball delivery system; (3) Category III devices consist of all methods of administration of chemical agents other than Category I and II devices; e.g. munitions fired from a gas gun.

Contraindication: Something (such as a symptom or condition) that makes a particular treatment or procedure inadvisable.

Dangerous Behavior: Assaultive behavior of all kinds including, but not limited to, striking, pushing, kicking, biting, spitting or throwing bodily fluids or feces.

Deadly Force: Force used against a person that is likely to cause death or serious bodily injury, as through the discharging of a firearm or through personal physical action.

Emergency: Any situation where the failure of an individual to take immediate action would place themselves or another at risk of death or bodily injury.

Emergent/Reactive Use of Force: The use of force in situations where time and circumstances do not permit approval by higher ranking employees or consultation or planning.

Excessive Force: A type or amount of force beyond that which is reasonably necessary to control the situation and achieve the correctional objective or the continued use of force after it is no longer reasonably necessary.

Firearm: A pistol, revolver or other weapon of any description, loaded or unloaded, from which ammunition can be fired.

Force: Any action within the force continuum by a staff member that is intended to compel an inmate to act or to cease acting.

Incident Commander: The one supervisor or senior designated staff person who is charged with the management of a specific calculated use of force incident.

Less than Lethal Kinetic Energy Weapons: Weapons that discharge kinetic energy, such as bean bags or OC (paint) ball munitions.

Level of Force: The type of force employed, amount of that type of force employed and the circumstances within which the force is employed.

Non-deadly Force: An amount of force used against an inmate or in a situation that would be reasonably expected not to result in death or serious bodily injury of an inmate.

Oleoresin Capsicum (OC): A product using tincture of oleoresin capsicum derived from cayenne pepper (its active agent), which is used to incapacitate, distract and control a subject.

Physical Force: The use of hands, other parts of the body, objects, instruments, chemical devices, electronic devices, firearms or other physical methods used to restrain, subdue, control, intimidate or to compel persons to act in a particular way or to stop acting in a particular way.

Reasonable Force: The use of physical force to achieve a legitimate correctional objective where the type and amount of force are consistent with the situation and the objective to be achieved, where alternatives to physical force are unavailable or ineffective, and where the force used is the minimum necessary to control the situation.

Security Equipment: Firearms, ammunition, batons, chemical agents, security restraints and similar devices.

Security Restraints: Handcuffs, flex cuffs, leg irons, belly chains, restraining chairs and other similar equipment designed to restrict and control the person’s movement from injuring themselves and/or others.

Serious Physical Injury: Physical injury which creates a risk of death or which causes disfigurement, impairment of health or loss or impairment of the function of any bodily organ.

Shift Supervisor: The staff member who is responsible for the security of the institution, the care and custody of all inmates housed in the institution and the supervision of all security staff during a given tour of duty. May be responsible for institutional operations during the absence of higher ranking staff.

Show of Force: A demonstration of the current ability to use force, such as the massing of officers or tactical squads.

Specialty Impact Munitions: Munitions designed to minimize the likelihood of causing life threatening injury, used to incapacitate, distract and control a subject.

Use of Force: Any situation in which staff uses physical force against an inmate, except those situations in which security restraints are used in a standard manner for escort or transport.

PROCEDURAL GUIDELINES

1. Conflict Resolution: Conflict shall be resolved at the lowest level of intervention compatible with the safety of staff, the public, inmates and the need to maintain order. Physical force shall only be used when alternatives to physical force have proven inadequate or the emergent situation does not provide the time or opportunity.
2. When Force May be Used
Staff may use force when it is necessary to:
 - a. defend themselves or another against a physical assault;
 - b. prevent the commission of a felony, including escape;
 - c. prevent an act which could result in the death or bodily injury to themselves or another person;
 - d. apprehend an escaped inmate;
 - e. prevent or control a riot or disturbance;
 - f. prevent serious damage to property;
 - g. prevent an inmate from inflicting self harm or attempting to commit suicide;
 - h. preserve the overall order and security of the institution and prevent an inmate from engaging in dangerous behavior;
 - i. move an inmate who has refused a proper order by a staff person;
 - j. conduct the search of an inmate who has refused a proper order by a staff person to submit to a search.

3. Prohibitions on the Use of Force

- a. Staff shall not use force prior to employing non-physical alternatives, except in an emergent situation.
- b. Staff shall not use or permit the use of excessive force.
- c. Staff shall not use or permit the use of force as punishment or discipline.
- d. Staff shall not use force when the use of that force would endanger an innocent bystander.

4. Levels of Force: The level of force and type of force equipment that may be used is dictated by the assessed risk presented, the severity of the conditions of the situation confronted and the staff person's assessment of where the incident falls on the Use of Force Continuum (see section 11). Levels of force are characterized as:

a. Less than lethal (non-deadly) force –

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b. Deadly Force –

5. Use of Restraints

- a. Routine movement: Instruments of restraint used during the routine movement of an inmate from one point to another within a correctional facility shall not be considered a use of force.

- b. Transportation: Use of restraints during the routine transportation of an inmate to and from a correctional facility to a court, to a medical appointment or a program in the community shall be governed by the administrative directive, #406.01, *Transportation of Offenders*, and shall not be considered a use of force.
 - c. Pregnant inmates: Refer to section 12.a. for special conditions.
 - d. The use of restraints in any aspect of a use of force continuum shall be in compliance with administrative directive # 413.08, *Use of Restraints and Roles of Security and Health Care Professionals in Facilities*.
 - e. Restraint Chair Use: Use of a restraint chair shall be in compliance with administrative directive # 413.10, *Use of Restraint Chair*, and shall be considered a use of force.
6. Chemical Agents: [REDACTED]
- a. Authorization for Use of Chemical Agents
 - i. [REDACTED]
 - ii. [REDACTED]
 - iii. [REDACTED]
 - b. Authorization to Carry Chemical Agents
 - [REDACTED]
 - c. Storage of Chemical Agents
 - i. [REDACTED]
 - ii. [REDACTED]
 - d. Inventory of Chemical Agents
 - i. [REDACTED]
 - ii. [REDACTED]
 - iii. [REDACTED]
 - e. Decision to Use Chemical Agents
 - i. [REDACTED]

ii. [REDACTED]

iii. [REDACTED]

f. Principles of Use

i. Chemical agents shall never be used to punish an inmate.

ii. [REDACTED]

iii. All chemical agents shall be used in accordance with the manufacturer's specifications and in accordance with an approved training.

iv. Except in an emergency situation, a qualified health care professional shall be consulted prior to staff using chemical agents to determine that there are no contraindications to use of the chemical agent(s) on this inmate.

v. [REDACTED]

vi. [REDACTED]

vii. Staff may only use the amount of chemical agent reasonably needed to achieve the desired effects.

viii. [REDACTED]

ix. [REDACTED]

g. Decontamination Procedures

Immediately after control has been established and/or resistance has ceased, staff shall make every reasonable effort to employ decontamination procedures on the affected inmate.

i. Flush the exposed area with clean cold water.

ii. Provide fresh air or some other form of ventilation where practical.

iii. Have the inmate breath normally through the nose.

iv. Do not apply lotion, salve or cream.

v. [REDACTED]

vi. Inmates wearing contact lenses should remove them before flushing the eyes.

vii. The use of a chemical agent on an inmate constitutes a use of force and requires that the inmate be seen by a qualified health care professional immediately after decontamination.

viii. A *Use of Force Report (Attachment 1)* shall be completed on every use of a chemical agent.

ix. Any inmate on whom a chemical agent has been used shall be placed on fifteen (15) minute watch for a minimum of two (2) hours following decontamination procedures. All such checks shall be recorded in the appropriate living unit log book.

7. Less than Lethal Kinetic Energy Weapons

Use of these weapons is covered under a separate administrative directive, #413.07, *Less Lethal*.

8. Advanced Communication Techniques (ACT)

Advanced communication techniques will be taught to designated correctional staff. These techniques represent an important set of skills to be employed in conflict resolution. ACT skills, in conjunction with knowledge of the inmate “behavior continuum”, help staff to choose the correct level of intervention based on the “Use of Force Continuum.”

9. Advanced Physical Control Techniques (APCT)

APCT skills will be taught to designated correctional staff instructing them on the proper use of physical intervention techniques. An APCT intervention may be necessary to resolve a conflict or to keep an inmate from engaging in self-injurious behavior.

10. Decision to Use Force

The decision to use force is situational and should be employed only to the degree necessary to control the inmate and to the level that will be effective with a minimum chance of harm to both the staff and inmate. Deciding to use force falls under one of two categories:

1) *emergent/reactive use of force* or 2) *calculated/planned use of force*.

- a. *Emergent or Reactive Use of Force*: This is normally in response to situations where time and circumstances do not permit approval by a higher ranking staff member or the ability to consult or plan. Staff is expected to know the “Use of Force Continuum” (see section 11) and be able to apply the proper level of force needed to control the inmate’s behavior and to protect themselves. Examples of emergent or reactive use of force situations would include direct attack on a staff member or another inmate, or an inmate trying to inflict self injury.
- b. *Calculated or Planned Use of Force*: A calculated or planned use of force occurs in situations where time allows for consultation with a supervisor, qualified health care or mental health professional, and where there is some opportunity to plan the actual use of force and assemble the necessary resources of equipment and staff. A calculated use of force, for example, would be a situation where an inmate is in a cell or in an area where a door or grill can be secured, even when an inmate is verbalizing threats or showing a weapon and there is no danger to staff or self.

The following guidelines shall be followed in every calculated or planned use of force. While it is recognized that an inmate who is threatening self injurious behavior may escalate an incident into an emergent or reactive force situation, a calculated use of force represents the best means of preventing or limiting injury to staff and inmates.

- i. Every calculated use of force incident shall be video recorded according to the provisions of the administrative directive on Video Recording Procedures.
- ii. Prior to the use of force, a qualified health care professional shall review the medical file of any inmate(s) involved to determine if there are any medical contraindications to physical force or OC being used.
- iii. If available, a qualified mental health professional shall review the medical chart, including the mental health record, of any inmate(s) involved to determine if any alternative intervention may be used to avoid the use of force. The qualified mental health professional shall also be consulted regarding the type of force that is contemplated to determine what contraindications may exist to the use of force.
- iv. Absent a qualified mental health professional, a qualified health care professional shall review the mental health file of an inmate, if available, to determine if there are any contraindications to the use of force. A qualified mental health professional shall be contacted by phone as necessary to provide consultation.

- v. If an inmate has a serious mental illness (SMI), every effort shall be made to consult with the qualified mental health professional who has the best knowledge of the SMI inmate involved in any calculated use of force.
- vi. A qualified health care professional shall be present at the time calculated force is used in the event emergency medical care is needed.
- vii. There shall be a complete documentation of the efforts made to avoid the use of force (*Use of Force Report Form, Attachment I*). See section 14.
- viii. [REDACTED]

ix. [REDACTED]

x. [REDACTED]

11. “Use of Force Continuum”

The “Use of Force Continuum” provides guidance in decision making when staff are confronted with an incident where the use of force may be necessary. There is no rigid hierarchy or specific initial sequence requiring one particular level of force or equipment to be used. The level of force and type of equipment used is dictated by the assessed risk presented and the severity of the conditions confronting staff.

USE OF FORCE CONTINUUM



• [REDACTED]

• [REDACTED]

• [REDACTED]

• [REDACTED]

12. Use of Force in Special Circumstances

In certain extenuating circumstances and after confrontation avoidance has failed or is not practical, staff may be forced to make a decision whether to use force on an inmate in a special category. Special categories may include pregnant inmates, disabled inmates, infirm or injured inmates or inmates with a serious mental illness (SMI). In all such cases, after consultation with the appropriate staff as outlined in section 10 above, an assessment must be made to determine whether the situation is grave enough to require use of physical force.

a. *Pregnant Inmates:*

- i. [REDACTED]
- ii. [REDACTED]

b. *Disabled, Infirm or Injured Inmates:*

[REDACTED] Prior consultation with a qualified health care professional is essential in determining the use or limitations on the use of force with this category of inmate. Following an emergent or reactive use of force where staff has come in contact with a bodily fluid, they should seek a medical review.

c. *Inmates with a Serious Mental Illness (SMI):* Except in an initial emergent or reactive use of force situation, use of force on an inmate with a serious mental illness shall be managed as a calculated, planned use of force. The challenges to using ACT skills while attempting to de-escalate an inmate with a serious mental illness who is threatening are recognizably great. Likewise, selection of the wrong intervention on the use of force continuum may only escalate the situation.

- i. When confronted with an active self injurious threat, staff shall immediately call for assistance.
- ii. A staff member does not need to wait for assistance prior to initiating life saving assistance.

iii. [REDACTED]

iv.

- v. Following the conclusion of a use of force incident involving an inmate with an SMH designation, the inmate shall be placed on close observation status for twenty-four (24) hours.

13. Medical Review

- a. After any use of force, any inmate involved shall be examined by a qualified health care professional. Every such exam shall be recorded on the appropriate health care record.
- b. Medical staff shall document any inmate refusal of medical examination or treatment.
- c. Blood borne Pathogens: When a person has been exposed to blood or bodily fluids resulting from the use of force, standard universal precautions shall be implemented according to administrative directive, # 351.03, *Blood Borne Pathogens Exposure Control Plan*.

14. Use of Force Report

Staff shall prepare *A Use of Force Report (Attachment 1)*, on any use of force including chemical agents, restraints, restraint chair or less than lethal (non-deadly) weapons. The *Use of Force Report* shall be filed along with any other reports mandated by directive.

- a. The report shall include:
 - i. An accounting of the events leading up to the use of force;
 - ii. A precise description of the incident and the reasons for employing force;
 - iii. A description of the type of force used, and how it was used;
 - iv. A description of the injuries suffered, if any, and the treatment given, if known, along with attached photographs, if any;
 - v. A list of all participants and witnesses to the incident.
- b. The Superintendent shall also require a written report containing matters listed in subsection a. above from any employee who witnessed the use of force.
- c. The *Use of Force Report* shall be forwarded to the Superintendent by the end of the next business day.
- d. The Superintendent shall forward the completed *Use of Force Report*, along with any additional mandated reports, to the Director of Security Operations and Audits within 48 hours of their review.

15. Training in the Use of Force

- a. All uniformed staff and other staff as designated shall be trained in the approved methods of using physical force, applying instruments of restraint, the use of Category I chemical agents, advanced communication techniques (ACT) and in the provisions of this administrative directive.
- b. All staff regularly assigned to housing units designated as mental health units, special management units, segregation units or close custody units shall also receive, in addition to the requirement of (a) above, advanced training in the following areas:

- i. Confrontation avoidance procedures;
- ii. Recognition of the signs of mental illness;
- iii. Working with inmates designated as seriously mentally ill (SMI).

16. Quality Assurance

The Facilities Executive in conjunction with the Director of Security Operations and Audits shall develop procedures for the tracking and review of:

- a. All incidents of use of force;
- b. All incidents of use of force involving an inmate with an SMI designation;
 - Incidents involving inmates with an SMI will also be sent to the Health Services Director.
- c. The training and certification requirements of all staff needing specific training and certification as required by this administrative directive.

If the answer is no, explain:

If more space is needed, attach separate sheet of paper.

5. Was the inmate verbally warned to stop or otherwise stop and obey the order of staff?
☐ yes ☐ no

If the answer is no, explain:

If more space is needed, attach separate sheet of paper.

6. List all the witnesses and participants to use of force:

NAME	TITLE

If more space is needed, attach separate sheet of paper.

7. Were chemical agents used? ☐ yes ☐ no
If the answer is yes, complete **14. Chemical Agents**

8. Were medical contraindications to the Use of Force or Chemical Agents checked?
☐ yes ☐ no

If the answer is yes, complete **15. Medical Contraindications to the Use of Force or Chemical Agents**

If the answer is no, explain:

If more space is needed, attach separate sheet of paper.

9. Were mental health contraindications to the Use of Force or Chemical Agents checked?
☐ yes ☐ no

If the answer is yes, complete **16. Mental Health Contraindications to the Use of Force or Chemical Agents**

If the answer is no, explain:

If more space is needed, attach separate sheet of paper.

10. Were restraints used? ☐ yes ☐ noIf the answer is yes, complete **17. Instruments of Restraint**11. Was the restraint chair used? ☐ yes ☐ noIf the answer is yes, complete **18. Use of Restraint Chair**12. Were Less than Lethal Kinetic Energy Weapons or Firearms used? ☐ yes ☐ noIf the answer is yes, complete **19. Use of Less than Lethal Kinetic Energy Weapons/Firearms**13. Was anyone injured as a result of the use of force? ☐ yes ☐ noIf the answer is yes, complete **20. Medical Treatment****14. CHEMICAL AGENTS**

Identify type: _____

Use was authorized by:

Name/Title:

Time:

Date:

Was inmate informed that the use of chemical agents was being considered?

☐ yes ☐ no

By whom: _____

Name/Title

Date & Time

If inmate was not informed, explain:

If more space is needed, attach separate sheet of paper.

Date and time chemical agent was used: _____

Date

Time

List employees who used chemical agents and date of their last training:

NAME/TITLE	TRAINED

If more space is needed, attach separate sheet of paper.

15. MEDICAL CONTRAINDICATIONS TO THE USE OF FORCE OR CHEMICAL AGENTS CHECKED BY:

Name/Title:	Time: Date:
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16. MENTAL HEALTH CONTRAINDICATIONS TO THE USE OF FORCE OR CHEMICAL AGENTS CHECKED BY:

Name/Title:	Time: Date:
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17. RESTRAINT DEVICES

Use of restraints was authorized by: _____

Name/Title:	Time: Date:
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Describe restraints used (e.g., belly chains, leg irons or any combination):

If more space is needed, attach separate sheet of paper.

What other methods of control were considered before the application of restraints (e.g., hands-on escort, verbal persuasion, etc.):

If more space is needed, attach separate sheet of paper.

List the names of staff who applied or assisted in the application of restraints, and the date they were last trained:

NAME/TITLE	TRAINED

If more space is needed, attach separate sheet of paper.

Date/Time restraints were applied:
Date/Time restraints were removed:
Total time in hours:

Shift Supervisor review after one (1) hour. Superintendent review after two (2) hours.

NAME/TITLE	TIME REVIEWED

Were restraints applied to prevent self-harming behavior? ____ yes ____ no

If yes, institutional/on-call qualified mental health professional notified by:

Name/Title:	Date:	Time:
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* Refer to *Administrative Directive 413.08, Use of Restraints and Rules of Security and Health Care Professionals in Facilities*.

18. USE OF RESTRAINT CHAIR*

Medical contraindications checked by:

Name/Title:	Date:	Time:
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Mental health contraindications checked by:

Name/Title:	Date:	Time:
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Approval obtained by the Superintendent, notified by:

Name/Title:	Time notified:
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* Refer to *Administrative Directive, #413.10, Use of Restraint Chair*

19. USE OF LESS THAN LETHAL KINETIC ENERGY WEAPONS/FIREARMS

Authorization given by:

Name/Title

Date/Time

Explanation:

If more space is needed, attach separate sheet of paper.

List name/title and date of last qualification (for type of weapon used) for persons using weapon.

NAME/TITLE	DATE QUALIFIED

If more space is needed, attach separate sheet of paper.

20. MEDICAL TREATMENT

List all persons injured and a description of injuries if known:

Name/Title	Injuries	Refused Treatment
		yes no
		yes no
		yes no
		yes no
		yes no
		yes no

If additional space is needed, attach separate sheet.

Treatment refusal made to:

Name/Title:

(Must be a qualified health services professional)

Institutional medical staff notified by:

Name/Title:

Date: Time:

Name of medical staff who received notice: _____

Time person was examined by medical staff: _____

Total time between notice and examination: _____

NOTE: ATTACH TO THIS FORM REPORTS OF ALL PERSONS INVOLVED OR WITNESS TO THE INCIDENT, ANY MEDICAL REPORTS ON STAFF OR INMATES, NARRATIVES OF THE INCIDENT, COPIES OF APPROPRIATE LOG ENTRIES, AS WELL AS ANY OTHER PERTINENT DOCUMENTATION SURROUNDING THE INCIDENT AND EVENTS THAT LEAD UP TO THE INCIDENT.

Report Prepared by:

Name/Title:

Date

Report Reviewed by:

Superintendent:

Date